

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

IN RE: YASMIN AND YAZ)	3:09-md-02100-DRH-PMF
(DROSPIRENONE) MARKETING, SALES)	
PRACTICES AND PRODUCTS LIABILITY)	MDL No. 2100
LITIGATION)	

This Document Relates to:

Sabine Gradauer, et al. v. Bayer Corporation, et al. No. 3:12-cv-11484-DRH-PMF

ORDER

HERNDON, District Judge:

Presently before the Court is defendants' Rule 12(b)(1) motion to dismiss for lack of subject matter jurisdiction filed in accord with Case Management Order Number 70 ("CMO 70") (MDL 210 Doc. 3634). In accord with CMO 70 the plaintiffs were given 14 days to respond. The plaintiffs have failed to respond in any way to the defendants' motion. The Court deems the failure to respond to be an admission of the merits of the motion. SDIL-LR 7.1(c).

It is evident that diversity jurisdiction is lacking; accordingly, defendants' motion must be granted. In the instant case, plaintiffs are citizens of a foreign country suing a foreign defendant. Diversity jurisdiction does not include cases in which there is a foreign national on each side of the case. *See Karazanos v. Madison Two Assocs.*, 147 F.3d 624, 626-27 (7th Cir. 1998) (Wood, J.) ("a suit between aliens falls outside Section 1332's jurisdictional grant") (citing *Hodgson v. Bowerbank*, 9 U.S. (5 Cranch) 303, (1809)). Further, the fact that there also is

a U.S. defendant does not give rise to diversity jurisdiction. As Judge Easterbrook has explained, Section 1332(a) “does not contemplate an alignment of alien versus citizen plus alien.” *Israel Aircraft Indus. Ltd v. Sanwa Bus. Credit Corp.*, 16 F.3d 198, 202 (7th Cir. 1994) (Easterbrook, J).

For the foregoing reasons, defendants’ motion to dismiss for lack of subject matter jurisdiction is **GRANTED**. The matter is DISMISSED for lack of subject matter jurisdiction.

IT IS SO ORDERED.

Signed this 27th day of March, 2015.

David R. Herndon
The seal is circular with "UNITED STATES DISTRICT COURT" at the top and "SOUTHERN DISTRICT OF NEW YORK" at the bottom. In the center is an eagle with wings spread, holding an olive branch and arrows, with a shield on its chest.

Digitally signed by
David R. Herndon
Date: 2015.03.27
14:22:02 -05'00'

United States District Court